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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing

Report of the Secretary-General submitted in accordance with Commission resolution 2001/34

CONTENTS

		Paragraphs	Page
Introduction		1 - 4	4
I.	REPLIES FROM GOVERNMENTS	5 - 35	4
A.	General legislative framework, policies and measures	7 - 23	5
B.	Transformation of customs and traditions that discriminate against women	24 - 27	9
C.	Information and education	28 - 29	10
D.	Access to credit	30 - 35	11

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CONTENTS (continued)

		Paragraphs	Page
II.	REPLIES FROM UNITED NATIONS BODIES, FUNDS AND PROGRAMMES	36 - 54	12
A.	United Nations Department of Economic and Social Affairs	36 - 38	12
B.	United Nations Centre for Human Settlements (UNCHS (Habitat))	39 - 43	13
C.	Economic Commission for Latin America and the Caribbean (ECLAC)	44 - 47	14
D.	Economic and Social Commission for Asia and the Pacific (ESCAP)	48	15
E.	Economic and Social Commission for Western Asia (ESCWA)	49	15
F.	United Nations Development Programme (UNDP)	50 - 51	16
G.	United Nations Development Fund for Women (UNIFEM)	52	16
H.	World Food Programme (WFP)	53 - 54	16
III.	REPLIES FROM SPECIALIZED AGENCIES	55 - 58	17
A.	International Labour Organization (ILO)	55 - 56	17
B.	Food and Agriculture Organization of the United Nations (FAO)	57 - 58	17
IV.	REPLIES FROM INTERNATIONAL AND REGIONAL FINANCIAL INSTITUTIONS	59 - 62	18
A.	African Development Bank	60	18
B.	Inter-American Development Bank	61	19
C.	International Monetary Fund	62	19

CONTENTS (continued)

		Paragraphs	Page
V.	WORK OF THE TREATY BODIES AND OTHER UNITED NATIONS HUMAN RIGHTS MECHANISMS, AND THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS	63 - 73	19
	A. Work of the treaty bodies	63 - 71	19
	B. Work of other United Nations human rights mechanisms	72	21
	C. Work of the Office of the High Commissioner for Human Rights	73	21
VI.	CONCLUSIONS	74 - 77	22

Introduction

1. In its resolution 2001/34, the Commission on Human Rights requested the Secretary-General to report to the Commission at its fifty-eighth session on the implementation of the present resolution. To this end, a note verbale was sent to States on 17 September 2001, requesting information that would be relevant to the report. As of 14 December 2001, information was received from the Governments of Belarus, Canada, Croatia, Fiji, Georgia, Guatemala, Lebanon, Mexico, Qatar, Spain and Tunisia.

2. Similarly, letters requesting inputs were sent to the regional and international financial institutions on 30 August 2001, and to relevant United Nations bodies, funds and programmes on 31 August 2001. Information was received from the following United Nations bodies, funds and programmes: Department of Economic and Social Affairs, United Nations Centre for Human Settlements (UNCHS-Habitat), Economic and Social Commission for Asia and the Pacific (ESCAP), Economic Commission for Latin America and the Caribbean (ECLAC), Economic and Social Commission for Western Asia (ESCWA), United Nations Development Programme (UNDP), United Nations Development Fund for Women (UNIFEM), World Food Programme (WFP). The following specialized agencies also sent information: International Labour Organization (ILO), Food and Agriculture Organization of the United Nations (FAO). The following regional and international financial institutions provided information: International Monetary Fund (IMF), African Development Bank (ADB) and Inter-American Development Bank (IDB). The United Nations Industrial Development Organization (UNIDO), the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization (WTO) indicated that they had no substantive inputs to offer.

3. The present report summarizes replies received from Governments, international and regional financial institutions as well as relevant United Nations agencies and bodies, and is submitted in accordance with resolution 2001/34. The originals, in the languages of submission, are available at the Office of the High Commissioner for Human Rights for consultation.

4. The report also contains information on the work of the treaty bodies, other United Nations human rights mechanisms and the Office of the High Commissioner for Human Rights (OHCHR) relevant to the resolution.

I. REPLIES FROM GOVERNMENTS

5. Replies received from Governments appear below in summary form, categorized into four sections, each corresponding to specific provisions of the resolution, namely: (a) general legislative framework, policies and measures (paragraph 4 of the resolution); (b) transformation of customs and traditions that discriminate against women (para. 6); (c) information and education (para. 7); and (d) access to credit (para. 8).

6. In addition to replies from Governments to the note verbale, summaries provided by UNCHS (Habitat) of the national reports submitted by countries to the special session of the General Assembly for an overall review and appraisal of the implementation of the Habitat Agenda (Istanbul +5) held in New York in June 2001 are also included under this section as relevant to the purpose of this report.[1]

A. General legislative framework, policies and measures

7. Belarus reported that, under article 23 of the Republic of Belarus Marriage and Family Code currently in force, spouses have equal opportunities to own, use and manage property acquired by them during their marriage, whichever of the spouses it was acquired for, or to whichever or by whichever of the spouses the necessary funds were provided. Equal rights to jointly acquired property are also enjoyed in the case where one of the spouses during the marriage has been occupied with housekeeping or looking after the children, or for any other valid reason has had no independent earnings (income), unless stipulated otherwise in the contract of marriage.

8. Canada reported significant progress towards the goal of women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing. In addition to the Canadian Charter of Rights and Freedoms, which prohibits discrimination in a number of areas, including in matters associated with housing, more explicit protection against prejudicial treatment in relation to housing is found in provincial human rights codes, which prohibit discrimination on such grounds as race, sex, marital status and receipt of public assistance. Provincial human rights commissions, along with community-based advocacy organizations, provide formal mechanisms and assist victims of discrimination in pursuing recourse. Although there are no legal or institutional impediments to home or land ownership in Canada, women can face socio-economic impediments to home and land ownership. For example ownership of land in Canada is influenced by the cost of land relative to household incomes; and for women home ownership is more closely related to family status than is the case for men. Canadian responses include both housing-specific initiatives, and efforts to address the underlying social causes. A number of initiatives have been undertaken to increase access to affordable housing and all federal housing programmes are available to women. Canada also recognizes that issues facing homeless women can differ significantly from those of men, and research efforts in this area are taking this into account.

9. In terms of international cooperation, supporting women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing are key issues that are addressed in many of the Canadian International Development Agency's (CIDA) policies. Gender equality is an integral part of all of the CIDA policies, programmes and projects. The three objectives of CIDA's Policy on Gender Equality are: (a) to advance women's equal participation with men as decision-makers in shaping the sustainable development of their societies; (b) to support women and girls in the realization of their full human rights; and (c) to reduce gender inequalities in access to and control over the resources and benefits of development. The implementation of CIDA's Policy on Human Rights, Democratization and Good Governance includes initiatives which address human rights education and law reform, in relation to gender equality and land rights.

10. Croatia reported that its Constitution expressly states that gender equality is one of its fundamental principles. This principle of equality, together with the provision guaranteeing the inviolability of ownership and succession rights, is elaborated through laws such as the Succession Act, and the Act on Ownership and Other Proprietary Rights. Accordingly, there are

no laws in the Republic of Croatia allowing discrimination against women as to ownership rights, the right to housing, succession rights, the right to manage one's own property or the right to obtain credit and capital.

11. Fiji reported that women's limited access to land and housing is due more to direct and indirect discrimination based on social norms than on legislation. The Constitution Amendment Act of 1997 protects the equality of women's and men's rights before the law (art. 38), and prohibits unfair direct and indirect discrimination. Its article 44 (1) guarantees provisions for programmes to "achieve for all groups or categories of groups who are disadvantaged effective equality of access to ... (b) land and housing". Legislation such as the Married Women's Property Act codifies married women's rights to hold property in their own name and their right to contract.

12. The Government of Fiji has also undertaken several steps relevant to the provisions of the resolution, including: (a) adoption of the 10-year Women's National Plan of Action; (b) creation of the Ministry of Women, Social Welfare and Poverty Alleviation; and (c) incorporation of gender and development by the Ministry of Finance and National Planning in its Strategic Development Plan 2002-2004, which includes: the advancement of women and gender equality, ensuring non-discrimination before the law, legal system and practice; advisory and marketing assistance; ensuring women's accessibility and full participation in power structures and decision-making bodies; and promoting the prevention and elimination of violence against women.

13. Georgia reported that the right to inherit and own property is recognized and guaranteed under the Constitution. In accordance with the Constitution, every human being is equal before the law regardless of his/her sex or other status, and the citizens of Georgia are equal in social, economic, cultural and political life. Women in Georgia enjoy their human rights and freedoms on an equal footing with men, including the right to property that the Civil Code provides for.

14. In terms of its international obligations, Georgia places importance on its compliance with reporting mechanisms to the treaty bodies under the respective United Nations human rights instruments. In addition, Georgia is a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms and is currently in the process of ratifying its Protocol No. 1, which provides for, in particular, the right to property. At the same time, Georgia mentioned that the right to property, as well as other rights and freedoms, could only be promoted and protected adequately provided that its territorial integrity is restored.

15. Guatemala provided extensive information on legislative and policy measures adopted with regard to the promotion of access to land and to adequate housing. Its Constitution enshrines the right of all persons to private property, as well as special land rights for indigenous groups. In 1998, reforms were introduced into the Civil Code on the rights of working women with regard to common property, recognizing for each spouse the right to dispose of property held in his/her own name. The legislation setting up a "Land Fund" specifically mentions that eligibility to benefit from the Fund is extended to both men and women, and property titles are issued in the names of both spouses. The 1999 law "Dignity and Integral Promotion of Women" sets out operational guidelines to promote equal opportunities for women. Discussions are currently under way in the Government as to the need to streamline and unify several laws that

cover different dimensions of the right to land and housing and their limitations. Guatemala also pointed to the lack of statistics on the extent to which women benefit from any of the legal measures adopted. It reported that no agricultural census had been conducted since the 1970s, and that there were no special surveys providing information on the distribution of land property.

16. Lebanon replied that its Constitution recognizes the rights of women to own land and to have a place to live in dignity. As a founding and active Member of the United Nations, it fully respects its obligations under the Universal Declaration of Human Rights. All its citizens are equal before the law and have the same rights and duties without any distinction or discrimination.

17. Mexico replied that women's capacity to acquire, administer and inherit property, including cultivable land, on equal terms with men is recognized by law. A new Land Law was passed in 1992 coinciding with the amendment of article 27 of the Constitution on land ownership. This new Law takes account of the change in the property regime and recognizes *ejido* (communal land ownership) as a legal entity, thereby regularizing the land tenure through the Land Certification Programme (PROCEDE). In January 1998, 21 per cent of the people covered by PROCEDE were women, of whom 53 per cent were *ejido* members, 10 per cent were owners and 37 per cent were residents. The new Land Law reformed the already existing women's agro-industrial unit (UAIM), following up on the commitment to set aside an area, located preferably in the better lands adjoining the urbanization zone, in order to establish farms or rural industries for the benefit of women over 16 years of age and where facilities to provide services and protection specifically for rural women can be grouped together. The new law extended this right to all women, whereas the previous legislation had limited it to women who were not *ejido* members.

18. With regard to housing, the Federal District Housing Law enacted in March 2000 was a major step forward in the field of legislation, providing for all inhabitants the right to proper and decent housing. The Law authorizes the government of the Federal District to establish a set of mechanisms and measures to secure and allocate funding for housing programmes through a Housing Institute of the Federal District.

19. Mexico also reported that it has recently amended various provisions of the Civil Code for the Federal District in Ordinary Matters and for the Whole Republic in Federal Matters, with a view to providing greater protection for women as regards the family property.

20. Spain replied that the principle of non-discrimination based on gender is enshrined in its Constitution, and that national laws guarantee the equality of rights of men and women to own, have access to and control property, land and housing. However, it recognized that women are still facing impediments due to prevailing social stereotypes and the feminization of poverty, which are creating increasingly difficult conditions for women in terms of their access to productive resources and to adequate housing.

21. Qatar replied that its Constitution guarantees the equality of men and women and that women have the right to own and inherit property. The laws and norms adopted in Qatar give utmost importance to the Qatari family and grant the right to adequate housing to all categories of society. The Government provides adequate houses for civil servants as well as social

housing for lower-income groups of society. The Government further provides land free of charge to construct housing, and provides adequate credit. Housing, electricity and water are also provided free of charge to elderly persons. There are many other advantages for Qatari families in which men and women are equal partners in terms of benefiting from and having access to them.

22. Tunisia reported that its legislation grants women, whatever their civil status and on equal terms with men, the right to conclude contracts in their own name, to dispose of their property or serve as the administrator thereof, and to institute proceedings before any court, including the administrative tribunals. In order to encourage access to property by married women, the Tunisian legislature promulgated Act No. 89-91 on 9 November 1998 regulating the regime of the joint estate of husband and wife in accordance with the principles of shared responsibility and partnership for couples, as stipulated in new article 23 of the Personal Status Code, and as an exception to the legal regime based on the principle of the separation of property owned by married couples. Under this Act, the regime of the joint estate is an optional regime and does not derogate from the procedure of succession.

23. According to the national reports on Istanbul +5 collected by UNCHS (Habitat), several other countries have undertaken legislative and administrative reforms to address the issue of equal access to land, property and housing:

(a) In Austria, a separate institution dealing with women-specific planning was established in 1998, anchoring the needs of women in a municipal institutional context. Measures include a focus on equal treatment of men and women, "women-friendly" urban planning, security and "women-friendly" housing;

(b) In Burkina Faso, article 57 of Decree No. 97-054/PRES/PM/MEF of 6 February 1997 recognizes equal access to land and property without any discrimination based on sex or matrimonial status;

(c) In Ethiopia, there are no impediments to women or any other particular group to owning or renting land, or taking mortgages in their own names;

(d) The laws in Iraq ensure that every citizen has access (at a symbolic cost which is affordable to low-income groups) to a plot of serviced land ready for construction without any kind of discrimination as to ethnic origin, religion, etc. Women have equal rights to property with men;

(e) In Rwanda, law No. 22/99 providing the same rights to both women and men to inherit was passed on 12 November 1999;

(f) In the United Republic of Tanzania, the Land Act of 1998 recognizes the right of every adult woman to acquire, hold, use, deal with and transmit land to the same extent and subject to the same restrictions as men;

(g) In 1998, Uganda enacted a new land law to operationalize the 1995 constitutional reforms. Article 31 (10) of the Constitution provides that men and women are entitled to equal rights in marriage, during marriage and on its dissolution. The new land act aims at ensuring gender equality in respect of access to land, as well as the protection of the rights of disadvantaged groups in general;

(h) Housing policy in Venezuela gives priority to low-income households, representing about 90 per cent of the national population. The Housing Policy also strives for equity and offers better opportunities for access to housing for the most vulnerable segments of society.

B. Transformation of customs and traditions that discriminate against women

24. Canada reported that some tracts of its land have been set apart for the sole use and benefit of members of the "First Nations".[2] The Indian Act provides rules as to who can use, occupy and possess such land, and no one can acquire a right to use, occupy or possess such land except in accordance with the Act. Because of the special tenure system on such reserve lands, First Nations women have raised concerns about their human rights under the Indian Act, including the lack of a mechanism for the division of matrimonial real property upon marital breakdown. Only provincial and territorial legislation can deal with the division of matrimonial real property. Where real property is situated on reserve lands, Supreme Court of Canada case law has established that while a court may take the assets of the matrimonial home and land into consideration and provide compensation, the court cannot deal directly with them and divide the assets. Similar limitations apply to the ability of the court to award exclusive possession or occupancy of the matrimonial home when it is located on reserve lands. In 1999, a sectoral self-government legislation, the First Nations Lands Management Act, was passed that included provisions dealing with the division of matrimonial real property on reserve in situations of marital breakdown. This legislation recognizes that it is the First Nation community that is best positioned to develop its own rules and procedures in respect to matrimonial real property.

25. Fiji reported that on 24 January 2000, it notified the Secretary-General of the United Nations that it had decided to withdraw its reservations on articles 5 (a) and 9 of the Convention on the Elimination of All Forms of Discrimination against Women, which it had based on "cultural obstacles". This came as a result of its amendment of article 38 of the Constitution on equality, especially its provisions (8) to (10) with regard to land, which are read in conjunction with articles 185 and 186 on customary rights and traditions. Furthermore, the Fiji Law Reform Commission, in its Family Law Reforms Report 2000, recommended reforms that essentially will improve women's capacity to own an equitable share of the matrimonial property upon divorce. Likewise, where inalienable native mataqali-owned land is concerned, a proposed compensatory formula will ensure that the woman sustains no loss in the distribution of family property.

26. Guatemala reported that, traditionally, women have enjoyed limited access to land, whether as owners, or as co-owners in the case of married women, under the patriarchal system in indigenous and non-indigenous groups. Given the structural basis of such exclusion, the policies and measures adopted have not produced significant changes. Gender disparity is

evident among agricultural workers, where the number of women owning or leasing land is significantly lower than that of men. The Government is facing great difficulties in addressing the need to establish clear titles to land ownership. The Land Fund legislation calls for the participation of women, both individually and through organizations, in the Fund's projects. The legal aid unit set to assist in resolving legal conflicts over land property also promotes the participation of women in the defence of their rights. About 10 per cent of beneficiaries of land reform distribution are women. The "Defensoria" for Indigenous Women can intervene in land registration cases. Proposals have been made to disaggregate data on female-headed households among those that benefit from the Land Fund.

27. Tunisia reported that the call for female emancipation in its country dates back to the beginning of the twentieth century. Just after independence, the 1956 Personal Status Code abolished polygamy, instituted official civil marriage and legal divorce, and reorganized the family on the basis of the equality of both spouses before the law. Its Constitution, promulgated on 1 June 1959, provides for the equality of all citizens before the law, and also stipulates that the right to property is guaranteed and is exercised within the limits established by the law. Subsequent laws have progressively established the fundamental rights of women in all fields, in particular with regard to ownership of, access to and control over land, and the equal rights to own property and to adequate housing. The advancement of women's rights today is a fundamental dimension of State policy, which stems from a cultural choice aimed at ensuring that women, as human beings and full citizens, enjoy the individual right to human dignity and the conditions for its realization.

C. Information and education

28. Guatemala provided an example of a programme to support rural women that included the participation of women in training schools, a scholarship programme for advanced study, and work training initiatives. A number of other activities promote education for rural women and support for women's organizations. Training activities for women include information on the rights of working women. A gender approach has been integrated in land registration programmes by including women among the technical field staff and including gender units in related professional and technical training activities. In many cases, non-governmental groups established to defend the rights of rural and indigenous women have set up microcredit initiatives or provided support to enable female-headed households to benefit from the Land Fund activities and those dealing with land tenure for indigenous groups, and helped to promote political participation of indigenous women.

29. Spain reported that the Institute of Women promotes public awareness of women's legal rights. It helps women to acquire the adequate education, training and advice which will enable them to know their rights and to exercise them in practice so that they can develop adequate capacity to access and control productive resources. Spain also reported an increase in co-financing arrangements with NGOs last year for programmes aimed at the social integration of women by promoting information and training on human rights and the exercise of women's rights to self-employment, with particular attention to female-headed households facing difficulties.

D. Access to credit

30. Canada reported that it ensures equal access to financing for homes or land, and that there are no impediments to getting a mortgage based on the sex of the borrower. Access to financing in practice may be limited for women, however, as they are more likely than men to have a low income, and lack formal employment or a previous credit rating. Canada has taken action to help ensure that women are not discriminated against when seeking loans or credit from lending institutions. Financial institutions are required to comply with the Canadian Human Rights Act, which provides for non-discrimination on the basis of sex regarding practices in the provision of goods, services, facilities or accommodation customarily available to the general public. One mechanism available to persons who believe they have been discriminated against by banks is the Canadian Banking Ombudsman; this is an independent body established to investigate complaints from individuals and small business owners.

31. Fiji reported that its Ministry of Women, Social Welfare and Poverty Alleviation administers a microcredit facility for rural women. The Government has also put in place a Small/Micro Enterprise Schemes project which has evolved in recent years within, inter alia, the Reserve Bank, the Ministry of National Planning and Finance and the Ministry of Commerce, Business Development and Investment, in conjunction with UNDP and United Nations specialized agencies. Women form the bulk of property owners in this informal sector and will therefore benefit from this project in the long term. Part of this project looks at ways of improving access to credit facilities and linking this with enterprise development.

32. Guatemala reported that women experience difficulties in accessing financial assistance for housing. In particular, women who have not legalized a separation or divorce may find it impossible to access financial assistance schemes, which require both spouses to apply jointly. Women are particularly active in voluntary organizations that seek to ensure the regularization of settlements and the provision of drinking water and other public services in slums. No gender-disaggregated data are available on the beneficiaries of any public action to promote access to land or housing.

33. Mexico replied that, while the Constitution and the Federal Employment Law apply the principle of equality between women and men and therefore do not distinguish between male and female workers, some administrative procedures, in particular as regards the provision of housing loans, had been omitted from this constitutional provision. For example, the rules of the National Housing Fund for Workers (INFONAVIT) on the granting of housing loans stipulated that only males could designate their spouses as economic dependants, which means that female heads of household were at a disadvantage in applying for loans. With a view to remedying this situation, and based on a proposal of the Grupo Plural Pro Víctimas Association, INFONAVIT modified the relevant administrative procedures and criteria. In July 1999 INFONAVIT adopted new rules for the granting of loans, affording preferential treatment to female heads of household and younger workers. Furthermore, as regards the Institute of Social Security for State Employees, housing loans were increased annually by 44.5 per cent in real terms and 68.3 per cent in nominal terms between 1995 and 2000. Priority was given to female heads of household.

34. Spain replied that its Government initiated the Third Equal Opportunity Plan, which includes a number of measures to facilitate access of women entrepreneurs to training, market information, new technologies, commercial networks and bank credit. The Institute of Women, given the increasing difficulties women entrepreneurs face in accessing credit, continues to support the initiatives of women entrepreneurs by providing financial support to those who are starting up new businesses or those under-represented in businesses.

35. Tunisia reported that, following the measures adopted by its Government on 5 April 1996, within the framework of the national plan of action for the family, a woman and her spouse may now each enter into an individual loan agreement with social security funds or the Housing Bank in order to build or purchase a joint home. A measure to reduce the interest rate on home loans was also adopted in August 1998, thus strengthening the voluntary nature of Tunisia's housing policy and helping to reduce the cost of purchasing a family home.

II. REPLIES FROM UNITED NATIONS BODIES, FUNDS AND PROGRAMMES

A. United Nations Department of Economic and Social Affairs

36. The Commission, in paragraph 10 of its resolution, invited the Secretary-General, as Chairman of the Administrative Committee on Coordination, to encourage all organizations and bodies of the United Nations system, individually and collectively, in particular UNDP, UNCHS (Habitat) and UNIFEM, to undertake further initiatives that promote women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, and allocate further resources for studying and documenting the impact of complex emergency situations, particularly with respect to women's equal rights to own land, property and adequate housing. The following two sections summarize replies from relevant United Nations bodies, funds and programmes and specialized agencies relating in particular to this provision of the resolution.

37. Pursuant to General Assembly resolution 54/135, the Department of Economic and Social Affairs organized in collaboration with UNIFEM and in consultation with FAO, an expert group meeting on the situation of rural women in the context of globalization in Ulaanbaatar from 4 to 8 June 2001. The outcomes of the expert group meeting are contained in a report of the Secretary-General on improvement of the situation of women in rural areas (A/56/268) which was submitted to the fifty-sixth session of the General Assembly.

38. The Department also reported that the Economic and Social Council endorsed, in its resolution 2001/5, the agreed conclusions of the forty-fifth session of the Commission on the Status of Women in 2001 regarding women, the girl child and HIV/AIDS. These recommended that Governments, the United Nations system and civil society, as appropriate, take measures to promote and implement women's equal access to and control over economic resources, including land, property rights and the right to inheritance, regardless of their marital status, in order to reduce the vulnerability of women in the context of the HIV/AIDS epidemic. In the high-level segment of its substantive session of 2001, the Council adopted a ministerial declaration calling on the United Nations to, inter alia, support African countries in promoting economic and social policies that are pro-poor and gender-sensitive, including employment and income-generating opportunities for poor people, women and youth through microfinance, community-based

development and decentralization, enterprise development, food security plans, adequate nutrition and land tenure. Furthermore, on the issue of agriculture and food security, the Council strongly called for the promotion of measures to increase food production and access to food, land, credit and technology.

B. United Nations Centre for Human Settlements (UNCHS (Habitat))

39. UNCHS (Habitat) reported that in recent years, it has intensified its activities particularly on issues of inclusive cities and the realization of land, housing and property rights with special focus on the rights of women and vulnerable groups. These activities include the following:

(a) The Global Campaign on Urban Governance was recently launched with a strategic focus on urban poverty reduction, as the quality of urban governance has a tremendous impact on poverty reduction efforts. The ability of the urban poor, especially women, to participate effectively in local decision-making processes has a tremendous impact on whether strategic plans are designed and implemented to address their needs, especially their rights to land, housing and property. The Campaign has developed a policy paper on women and urban governance;

(b) The Cities Alliance was launched jointly by UNCHS (Habitat) and the World Bank in May 1999 as an expanding partnership of organizations committed to developing innovative approaches to urban poverty reduction. The Cities Alliance, in its "Cities Without Slums Action Plan", has set the ambitious target of making a significant improvement in the lives of at least 100 million urban poor by 2020, which was endorsed at the Millennium Summit;

(c) The Global Campaign for Secure Tenure, launched in July 2000, is an advocacy instrument of the United Nations designed to promote the rights of the urban poor to participate in processes of settlement upgrading and urban development. The Campaign recognizes the need to have a specific rights-based focus on women, based on the principle of gender equality and the recognition of women's rights to land, housing and property as human rights. The Campaign issued a publication entitled *Best Practices on Access to Land and Security of Tenure* (HS/588/99E);

(d) Elaboration of a joint housing rights programme has been initiated by UNCHS (Habitat) and OHCHR, pursuant to Commission on Human Rights resolution 2001/28 and Commission on Human Settlement resolution 16/7 (see paragraph 73 below).

40. At the same time, UNCHS (Habitat) has been promoting gender equality and related policy changes in all of its relevant technical cooperation activities. Examples directly related to the resolution include support to policy revision in ongoing land reform in Rwanda including capacity-building for women's organizations, and addressing gender issues in post-conflict reconstruction in Rwanda and Kosovo. Also, a number of projects under the Cities Alliance initiative to improve upgrading of informal settlements have been placing emphasis on the provision of security of tenure as well as equal treatment for women in access to land, markets and credit. Some examples related to this topic include India's draft national slum upgrading initiatives which emphasize the importance of secure tenure and the role of women, and tenure regularization in slum upgrading initiatives under way in Nairobi.

41. In the field of research, UNCHS (Habitat) has undertaken a pilot project on women's rights to land and property covering three East African countries, namely Kenya, Uganda and the United Republic of Tanzania. This comprehensive work examines the historical context, customary/traditional laws and practices, as well as provisions of State law in the modern setting. The study also looks at the critical area of implementation of law and policy and how governance structures facilitate or impede women's equal access to land and property.

42. On the issue of complex emergency situations, UNCHS (Habitat) organized an inter-regional consultation on women's rights to land and property during conflict and reconstruction in Kigali in February 1998 with support from UNDP and UNIFEM. The results of the consultation are reflected in a publication *Women's Land and Property Rights in Post-conflict, Situations Conflict and During Reconstruction: A Global Overview* (HS/589/99E), which points in particular to the challenge of addressing inequalities that women face in land and inheritance rights. Drawing from testimonies and case studies from Eritrea, Liberia and Guatemala, it presents many encouraging examples of success in doing so, including the importance of community development initiatives that work directly with women to solve local problems. As follow-up to this consultation in 1998, a parallel event on the subject was organized during the Istanbul +5 session in New York with UNDP and UNIFEM.

43. UNCHS (Habitat) also held a number of other consultations/meetings on housing rights which also focused on women's equal rights to land, housing and property. These include the panel discussion held during the Istanbul +5 session organized jointly with OHCHR and the Global Parliamentarians on Habitat, with the participation of the Special Rapporteur on the right to adequate housing, the Chairperson on the Committee on Economic, Social and Cultural Rights, as well as many representatives of national delegations and civil society organizations.

C. Economic Commission for Latin America and the Caribbean (ECLAC)

44. ECLAC reported that in February 2000, its member States adopted the Regional Programme of Action for the Women of Latin America and the Caribbean, 1995-2001,which addresses issues relevant to the resolution including equal access of women to all productive resources, women's lack of land tenure and access to credit, women's participation in decision-making, and giving access to decent housing and adequate infrastructure services for women living in poverty, especially female heads of household. These mandates were further reinforced at the regional preparatory conference for Istanbul +5 held in October 2000, which adopted the Santiago Declaration on Human Settlements.[3]

45. ECLAC also implements several research and technical cooperation projects which relate to the provisions of the resolution. Under the three-year project on "Policy options to promote the development of rural land markets", policy guidelines were formulated to increase transparency in these markets and improve efficiency and equity in land distribution by mainstreaming gender issues and identifying opportunities and obstacles for women wishing to acquire land titles. Under the same project, country-level studies were conducted in order to promote equal access by women to the rural land market as one way of fostering their economic independence and overcoming poverty in the rural sector.

46. Access to land and appropriate housing was also underlined as a key issue in a study carried out by the ECLAC subregional headquarters in Mexico to identify priority areas for public policies in relation to the situation of rural women in Central America. Subsequent to the recommendations contained in the final document which updated the state of implementation of such policies in Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, specific legislation has been adopted to promote the rights to property and access to land in Costa Rica (Laws No. 7940 and 7950), El Salvador (National Plan for Women) and Nicaragua (National Plan for Women and Law No. 278).

47. With regard to the issue of complex emergency situations, ECLAC initiated a project in 1999 entitled "Improved damage assessment methodology to promote natural disaster mitigation and risk reduction awareness and preparedness in Latin America and the Caribbean", under which two subregional gender-disaggregated studies on the impact of natural disasters, as well as in the revision of the *Manual para la estimación de los efectos socioeconómicos de los desastres naturales*, originally published by ECLAC in 1991. In addition, a third study on the situation in El Salvador after the earthquakes of January 2001 has been undertaken, which included assessment of losses in terms of their productive and unpaid work for women who had lost their homes.[4]

D. Economic and Social Commission for Asia and the Pacific (ESCAP)

48. ESCAP and UNCHS (Habitat) jointly organized a three-day "Seminar on Securing Land for the Urban Poor", in Fukuoka, Japan, from 2 to 4 October 2001 which addressed the problems faced in cities of developing countries to secure land for the urban poor due to poorly regulated and managed land markets. The seminar exchanged experiences in urban land management and innovative approaches to securing land for housing the urban poor. While the seminar was not exclusively designed to address the issue of women's access to land, gender concern was raised since women form a large share of the urban poor in Asia and the Pacific. The Seminar adopted a number of conclusions and recommendations, including a reaffirmation that secure tenure is a major contribution to the alleviation of poverty, to sustainable livelihoods, to improving the choices and opportunities for men and women, for accessing services, and for recognition of the citizenship of the urban poor and the rights that go with such citizenship.

E. Economic and Social Commission for Western Asia (ESCWA)

49. ESCWA addresses the issues contained in the resolution by undertaking research and field surveys in order to assist member States in taking the appropriate measures and formulating gender-sensitive policies for gender equality, in selected conflict-stricken areas in the ESCWA region. For instance, ESCWA has recently published a study on the relationship between conflict, poverty and female-headed households in order to formulate poverty alleviation strategies to empower these poorer women. Another study focused on the operationalization and feasibility of microcredit lending facilities for alleviating poverty of women in rural and urban areas. The findings of these studies led to proposals and action-oriented policy recommendations for equal access to and control over resources. It is important to note at this point that in the Arab countries, both the Shariah and legislation accord women equal rights with men to own property and real estate.

F. United Nations Development Programme (UNDP)

50. UNDP reported that its Strategic Results Framework (2000-2003) addresses the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and protection of women's human rights as a strategic objective for UNDP support to developing countries. UNDP country offices are assisting programme countries in the formulation and review of legislation, the development of enforcement mechanisms for the protection of women's human rights, as well as in advocacy work. Women's right to inherit land on an equal basis with men is one of the practical initiatives supported by UNDP in Swaziland, Cuba, Honduras, Nepal and India.

51. In Swaziland, UNDP is assisting the Government in the preparation of a case study on women's access to land ownership. In Cuba, UNDP has contributed to legal agreements, in collaboration with UNIFEM, to ensure that at least 50 per cent of forest farms established in Granma Province will be transferred to women owners. In Honduras, UNDP supported the drafting of a gender equity law which includes women's inheritance rights. In Nepal, advocacy and consultation workshops were organized for members of parliament which focused on the changes to the Bill on Women's Property Rights. The bill had been amended to provide the right to parental property both at birth and after marriage, and was scheduled for legislation by the parliament. In India, 22 initiatives spread across 10 States have been supported by UNDP to build the capacity of women's groups to enhance their access to land and control over productive resources.

G. United Nations Development Fund for Women (UNIFEM)

52. UNIFEM reported that its Andean Office has made women's ownership and access to land a priority issue in its programming. This has developed from the strong work it has done in Bolivia where it supported the mobilization of NGOs in a campaign to support the implementation of an existing law which gives women legal access to land and property rights. In Ecuador, UNIFEM has been supporting indigenous women's meetings to discuss issues of land reform and land access and ownership for women. UNIFEM has also continued its role in liaising with other key United Nations agencies and NGOs in putting the issues of women's land rights and ownership on the international agenda.

H. World Food Programme (WFP)

53. In expressing its strong support for the resolution, WFP replied that it has already put policies in place and has made progress in the programmes it supports, in line with the provisions of the resolution. In November 2001, the Executive Director of WFP issued a directive that covers all WFP-assisted operations, specifying that WFP country offices should ensure that women have access to all privately owned physical assets created. This includes land that is allocated or rehabilitated in connection with WFP-assisted activities. The ultimate aim is to achieve gender equality in asset creation. Where there are legal or customary constraints that prevent assets from being divided equally among women and men, special justification needs to be given prior to approval.

54. One success story of women's access to land has been WFP's assistance in Egypt. In 1998, the Government of Egypt by ministerial decree decided that in all WFP-assisted land settlement schemes - depending on the overall size of agricultural holdings - one fifth to one third of the land must be allocated to the settler's spouse (usually the wife) in every household with a husband and wife. In addition, a specific quota (20 per cent) was set for the settlement of female-headed households who face special hardship. In these households all the land is allocated in the name of the female household head. This decree made it possible for all settler women to access additional productive resources and services: they are now eligible for membership in agricultural cooperatives (which assist in input supply, provision of draught power and marketing), and for formal credit.

III. REPLIES FROM SPECIALIZED AGENCIES

A. International Labour Organization (ILO)

55. Article 1.1 (a) of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) defines discrimination as "any distinction, exclusion or preference made on the basis of ... sex ... which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation". In this context, the ILO Committee of Experts on the Application of Conventions and Recommendations has been addressing the issue of women's equal rights with regard to ownership of property and equality of opportunity in employment and occupation. The Committee has recommended amending legislative provisions in a number of countries that require married women to obtain their husband's permission before entering into a commercial partnership agreement, as well as provisions requiring married women to obtain the authorization of their husbands before they can become members of housing, agricultural and family vegetable garden cooperatives. The Committee has also urged a number of Governments to eliminate discrimination on the basis of sex in family law provisions governing the distribution of property at death.

56. In the area of technical cooperation, the ILO Inter-Regional Programme to Support Self-reliance of Indigenous and Tribal Peoples (INDISCO) project has supported indigenous women in Cordilleras, Bukidnon and Sarangani pilot sites in the Philippines, helping them participate in the management and control of their ancestral domains. In accordance with the Indigenous Peoples Rights Act, this has included affirmative action through awareness raising and capacity-building to ensure women's presence and regular participation in village tribal councils and domain-level councils of leaders. Although the new ILO project to promote policy on indigenous and tribal peoples is currently in the planning stage and not yet conducting any activities with women as a specific focus, issues pertaining to indigenous and tribal women are generally integrated in project activities or may serve as the focus of specific components of such activities.

B. Food and Agriculture Organization of the United Nations (FAO)

57. FAO reported that, in accordance with the resolution, it has undertaken various initiatives in order to strengthen the institutional capacity of its member countries in improving women's access to and control over land. In terms of policy support and research, activities included:

(a) Development of several country case studies to document specific constraints and opportunities women face in access to and control over agricultural land and other natural resources in different economic, social and institutional contexts;

(b) Publications and raising awareness materials, including a series of thematic and country fact sheets on gender and land rights, articles on agrarian changes and women's access to land in Nicaragua, and policy guidelines on integrating gender in land and natural resource tenure;

(c) Examining linkages between HIV/AIDS, population, gender and land issues to determine how land tenure is influenced by demographic and gender factors in the context of the HIV/AIDS epidemic; and

(d) Exploring demographic issues that significantly influence land tenure and land management schemes in China both at household and village level, and the participation of women in the overall process of agriculture.

58. FAO also provided technical assistance to the Agrarian Reform Institute of Brazil in order to improve women's access to land in the context of the agrarian reform programme, through the integration of gender-responsive mechanisms for land distribution and management in agrarian reform settlements. In Nicaragua, support was provided to the Instituto de la Mujer Nicaraguense and organizations in the agricultural sector related to land access and management for strengthening institutional mechanisms for women's equal rights to land in land distribution and titling programmes.

IV. REPLIES FROM INTERNATIONAL AND REGIONAL FINANCIAL INSTITUTIONS

59. The Commission, in paragraph 9 of its resolution, recommended that "international financial institutions, regional, national and local housing financing institutions and other credit facilities promote the participation of women and take into account their views to remove discriminatory policies and practices, giving special consideration to single women and households headed by women, and that these institutions evaluate and measure progress to this end". International and regional financial institutions were particularly requested to provide their views relating to this provision of the resolution.

A. African Development Bank

60. The African Development Bank replied that it recently adopted a gender policy paper outlining its commitment to promoting gender mainstreaming in its operations as a means of fostering poverty reduction, economic development and gender justice in the continent. The major objectives of the Bank's gender policy are to promote gender mainstreaming in Bank operations and to support regional member countries to attain gender equality. The guiding principles of the policy call for: (a) the application of gender analysis to all Bank operations; (b) the need to recognize gender differences in development policy and planning; and (c) to eliminate gender inequalities and promote partnership between men and women. The priority areas of the Bank's intervention include education as the key to women's empowerment;

assistance to agriculture and rural development with emphasis on the removal of gender inequality in the sector; and programmes focused on reducing women's poverty, meeting women's health needs and increasing women's participation in decision-making.

B. Inter-American Development Bank

61. The Inter-American Development Bank replied that it has in place an Operational Policy on Women in Development (WID) since 1987. The WID policy establishes that the Bank will assist member countries in the integration of women in the development process through its loan and technical cooperation programmes. A Women in Development Unit was created in 1994 to assist the Bank to mainstream gender concerns into its operations. In 1995, the Bank created the External Advisory Council on Women in Development to advise the Bank on gender issues. The Bank has also established the Committee for Environmental and Social Impact, of which the Women in Development Unit is a member. These actions have indeed helped the Bank and member countries to introduce actions and activities for women's equal ownership of, access to and control over land and their equal rights to own property and to adequate housing. Some of the recommendations are aimed at providing better access to credit for women, inclusion of women's names in land or house ownership titles, and addressing the issue of discrimination against women-headed households.

C. International Monetary Fund

62. The International Monetary Fund (IMF) replied that it provides support in three ways. First, the Fund encourages countries to involve civil society, including women's groups, in the drafting of country poverty reduction strategy papers (PRSPs), which serve as the basis for the Fund's concessional assistance, including debt relief. Such participation gives a voice to women who are directly affected by gender discrimination. Second, the Fund's policy advice for low-income countries emphasizes the importance of redirecting budgetary resources into basic health and primary education, which are of particular importance to women in developing countries; the Fund also emphasizes the importance of equal access to these public services. Third, the Fund and the World Bank are stressing the importance of having countries integrate poverty and social impact analysis (e.g., the analysis of intended and unintended consequences of policy interventions on the well-being of the poor and other vulnerable social groups, including women) into their poverty reduction strategies. The IMF staff is placing emphasis on taking into consideration the social impact of key policy measures that it supports, to ensure that appropriate countervailing measures are integrated into the design of these programmes.

V. WORK OF THE TREATY BODIES AND OTHER UNITED NATIONS HUMAN RIGHTS MECHANISMS, AND THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

A. Work of the treaty bodies

63. In paragraph 12 of the resolution, the Commission encouraged "all human rights treaty bodies, in particular the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women, special procedures and other human rights mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of

Human Rights regularly and systematically to take a gender perspective into account in the implementation of their mandates, and to integrate the contents of the present resolution into their work, as appropriate". The following section summarizes recent activities of these bodies that are relevant to the resolution.

1. Committee on Economic, Social and Cultural Rights

64. The Committee on Economic, Social and Cultural Rights consistently examines the aspects of non-discrimination and gender equality in its review of States parties' reports under article 11 (1) of the Covenant. In addition to General Comments No. 4 on the right to adequate housing and No. 7 on forced eviction, adopted in 1991 and 1997, respectively, the Committee addressed the question of women's equal ownership to land and other property in the context of the right to food in its General Comment No. 12 in 1999.

65. At its twenty-sixth session, held in August 2001, the Committee, in its concluding observations on Senegal, urged the State party to enact or enforce legislation prohibiting customary practices such as polygamy, female genital mutilation and restricting access by women to land, property, housing and credit facilities and to inheritance of land, and to take measures to combat such practices by all means, including national education programmes.[5]

66. In it concluding observation on the Syrian Arab Republic, the Committee expressed concern about the persisting discrimination in the political, social and economic spheres of life against women, which is particularly reflected in, inter alia, unequal treatment insofar as personal property and social security laws are concerned, and strongly recommended that the State party take effective measures to incorporate gender equality in both legislation and in governmental policies and administrative programmes, with a view to ensuring equality of men and women and addressing such problems.[6]

67. In its concluding observations on Nepal, the Committee noted with concern that land and agrarian reforms have still not been addressed properly and that tenants therefore have not obtained security of tenure, and that a great number of peasants do not possess any land. The Committee urged the State party to enact or enforce legislation prohibiting customary practices and restricted ownership by women of land and family property which violate the rights of women and girl children and to take measures to combat such practices by all means, including national educational programmes.[7]

2. Committee on the Elimination of Discrimination against Women

68. The Committee on the Elimination of Discrimination against Women gives particular attention to the needs of rural women, specifically the particular problems faced by rural women. The Committee has also nominated a focal point to follow the work of FAO, which regularly contributes information to the Committee.

69. At its twenty-fifth session in July 2001, the Committee, in its concluding observations on Guinea, expressed concern that customs and beliefs preventing women from inheriting or gaining ownership of land and property were most broadly accepted in rural areas. The Committee urged the Government to pay the greatest attention to the needs of rural women and

to ensure that they benefited from policies and programmes adopted in all spheres, as well as participated in decision-making and had full access to health services and credit facilities. It also urged the elimination of discrimination with respect to the ownership and inheritance of land.[8]

70. In its concluding observations on Nicaragua, the Committee expressed its concern at the indirect discrimination against women because of their limited access to credit due to lack of collateral and recommended improved access to credit, with special emphasis on rural women.[9]

71. In its concluding observations on Viet Nam, the Committee expressed concern that the retirement age was negatively affecting rural women's access to land and recommended that the State party evaluate the present Land Law and eliminate any provisions which discriminated, directly or indirectly, against women.[10]

B. Work of other United Nations human rights mechanisms

72. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living of the Commission on Human Rights, appointed by its resolution 2000/9, has been mandated to address, inter alia, the right to non-discrimination in the context of adequate housing and to apply a gender perspective in his activities. In his first report to the Commission (E/CN.4/2001/51), the Special Rapporteur included a section on gender discrimination in housing and land rights, in which he stressed the right of women to be free from all forms of discriminatory conduct pertaining to housing, land and property. Further, he has consistently emphasized this aspect of his work in his contributions to global conferences, including the special session of the General Assembly for an overall review and appraisal of the implementation of the Habitat Agenda, the Third United Nations Conference on the Least Developed Countries and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.[11] The Special Rapporteur will continue to focus on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, and intends to devote a substantial part of his report to the Commission in 2003 on these issues.

C. Work of the Office of the High Commissioner for Human Rights

73. Pursuant to Commission resolution 2001/28, OHCHR has initiated a series of consultations with UNCHS (Habitat) with a view to finalizing the programmatic elements of the envisaged joint housing rights programme by early 2002. The primary objective of the programme would be to promote and contribute to the global process towards the full and progressive realization of the right to adequate housing as contained in relevant international instruments. In accordance with paragraphs 11 and 13 of the resolution, the programme will place particular focus on integrating a gender perspective and addressing relevant aspects of the resolution. Furthermore, the recent appointment of a gender coordinator within the Office of the High Commissioner for Human Rights should augur well for further integrating the aspects of the resolution into the housing rights programme and other technical cooperation activities carried out by the Office.

VI. CONCLUSIONS

74. Women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing are essential to women's everyday survival, economic security and physical safety, and are often critical determinants in women's overall living conditions, particularly in developing countries. Constitutional recognition of the principle of equality and non-discrimination and adoption of specific gender-sensitive legislation are important prerequisites to guaranteeing and protecting women's rights to land, housing and property. While the contents of such gender-sensitive legislation may vary in different economic, political and social contexts, it is most pertinent that they be in line with international human rights instruments. Most recently, this has been reaffirmed in the Declaration on Cities and Other Human Settlements in the New Millennium adopted in June 2001 at the special session of the General Assembly for an overall review and appraisal of the implementation of the Habitat Agenda, in which Governments resolved "to continue to undertake legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technologies, as well as ensuring their right to security of tenure and to enter into contractual agreements" (para. 44).

75. Experiences reported indicate that education and awareness raising among both men and women on the status of women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing are essential to the realization of these rights for women. In view of the important role the civil society can play in this regard, and also in other aspects of this resolution, the Commission may wish to further consider the role of the civil society, including women's organizations, in promoting the content of the resolution.

76. This report demonstrates the wealth of activities undertaken by the United Nations system as a whole, and by the international and regional financial institutions, on areas relevant to the resolution. The Commission may wish to further encourage the United Nations agencies to explore ways in which the provisions of this resolution could be further implemented in a system-wide manner through existing mechanisms, such as the Common Country Assessment/United Nations Development Assistance Framework, the Habitat Task Manager system or the Comprehensive Development Framework/PRSP. The Commission may also wish to urge Governments to provide adequate support to the efforts of the United Nations agencies in this respect, in particular towards the realization of a joint housing rights programme being formulated jointly by OHCHR and UNCHS (Habitat) in cooperation with other agencies, and other technical cooperation activities.

77. Lastly, the complexity of issues involving women's ownership of, access to and control over land and the equal rights to own property and to adequate housing, as demonstrated in this report, makes the need for more substantive research all the more evident. Among the possible areas of research are issues related to women's access to land and/or the relationship between the right to adequate housing and land and property rights, with a view to better determining how the right to adequate housing might be used to support women's rights to land and property. In relation to the latter, the Commission may wish to take note of the reports of the Special Rapporteur on adequate housing,[12] in which he indicated his willingness to examine these issues from the perspectives of his mandate.

Notes

[1] Based on information from the countries for the preparation of Istanbul +5, UNCHS (Habitat) compiled a booklet entitled "The Gendered Implementation of the Habitat Agenda", which focuses on women, secure tenure and governance. National reports on the implementation of the Habitat Agenda submitted to Istanbul +5 are available on the UNCHS web site (*http://www.unchs.org*).

[2] Canada uses the term "First Nations" to replace previously used terms such as "band" or "tribe".

[3] See Report of the regional meeting for Latin America and the Caribbean for the special session of the General Assembly for an overall review and appraisal of the implementation of the Habitat Agenda (Santiago, 25-27 October 2000) (HS/C/PC.2/2/Add.5, annex I).

[4] The complete study is available on the ECLAC gender web site (*http://www.eclac.cl/mujer*).

[5] E/C.12/1/Add.62, paras. 15 and 34.

[6] E/C.12/1/Add.63, paras. 14 and 31.

[7] E/C.12/1/Add.66, paras. 21 and 43.

[8] A/56/38, paras. 138 and 139.

[9] Ibid., para, 307.

[10] Ibid., para. 271.

[11] A/CONF.189/9.

[12] E/CN.4/2001/51 and E/CN.4/2002/59.